

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MAYRA VASQUEZ, et al. : CIVIL ACTION
: :
v. : :
: :
COMMONWEALTH OF PENNSYLVANIA :
COURT OF COMMON PLEAS FIRST :
JUDICIAL DISTRICT WARRANT AND :
ENFORCEMENT UNIT, et al. : NO. 05-324

MEMORANDUM

Bartle, C.J.

January 13, 2006

Plaintiffs have sued the City of Philadelphia, Philadelphia Police Department (the "City") and a number of other defendants for violations of their civil rights under 42 U.S.C. §§ 1983, 1985(3), and 1986. All defendants, other than the City, have previously been dismissed. Before the court is the motion of the City for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. See Celotex Corp. v. Catrett, 477 U.S. 317 (1986).

We view the facts in the light most favorable to plaintiffs. Matsushita Electric Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). Mayra Vasquez, her husband Hugo Fuentes, and their children live at 2400 N. Hancock Street in Philadelphia. On March 20, 2003 the Philadelphia police executed a bench warrant signed by a Municipal Court Judge for one Eusebio Acevedo at that address. After breaking down the front door of the house at 6:30 a.m., the police entered. Ms. Vasquez and her

children, who were present, were put in fear. Contrary to what the bench warrant stated, Mr. Acevedo did not live at her home. Indeed, he was unknown to her.

In essence, plaintiffs claim that the City was deliberately indifferent in training police officers to obtain the correct address of those who are arrested and are in the criminal justice system. Under §§ 1983, 1985(3), and 1986, there is no respondeat superior liability. Monell v. Dep't of Social Servs., 436 U.S. 658, 694-95 (1978); Holmes v. City of Philadelphia, No. Civ.A. 05-2909, 2005 WL 1875524, at *2 (E.D. Pa. Aug, 4, 2005); Gueson v. Feldman, No. Civ.A. 00-1117, 2002 WL 32308678, at *5 (E.D. Pa. Aug. 22, 2002). The City may be held liable only if there is a policy or custom that results in a constitutional violation. Failure to train can also result in the imposition of liability on the City. However, mere negligence is not sufficient. In order for the City to be held responsible, it must have acted with deliberate indifference to the rights of its inhabitants. City of Canton v. Harris, 489 U.S. 378, 392 (1989).

There is no dispute that the police had the wrong address for Mr. Acevedo and, as a result, the unfortunate breaking and entering of plaintiffs' home occurred. While one might reasonably argue that the City was negligent and its procedures deficient in tracking down and verifying the correct addresses of those arrested, the record does not permit the

conclusion that the City acted with deliberate indifference.

Groman v. Township of Manalapan, 47 F.3d 628, 637 (3d Cir. 1995).

Accordingly, we will grant the motion of the City for summary judgment.

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ORDER

AND NOW, this 13th day of January, 2006, for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that:

(1) the motion of defendant the City of Philadelphia, Philadelphia Police Department for summary judgment is GRANTED; and

(2) judgment is entered in favor defendant the City of Philadelphia, Philadelphia Police Department and against plaintiffs Mayra Vasquez, Hugo Fuentes, Cynthia Fuentes, Heidi Fuentes, Hugo Fuentes, Jr., and Karina Fuentes.

BY THE COURT:

/s/ Harvey Bartle III

C.J.